

**BOARD OF APPEALS
for
MONTGOMERY COUNTY**

Stella B. Werner Council Office Building
100 Maryland Avenue
Rockville, Maryland 20850

www.montgomerycountymd.gov/content/council/boa/index.asp

(240) 777-6600

CASE NO: S-2754

PETITION OF MALCOLM R. POULIN AND ROSALIND M. FLYNN

OPINION OF THE BOARD

(Opinion Adopted January 27, 2010)
(Effective Date of Opinion: March 18, 2010)

Case No. S-2754 is an application for a special exception to permit an accessory apartment pursuant to Section 59-G-2.00 of the Zoning Ordinance. The Hearing Examiner for Montgomery County held a hearing on the application on December 3, 2009 and on January 5, 2010, issued a Report and Recommendation for approval of the special exception.

The subject property is Lot 29; Norbeck Hills Subdivision, located at 15336 Baileys Lane, Silver Spring, Maryland, 20906, in the PD-3 Zone.

Decision of the Board: Special Exception **Granted** Subject to
Conditions Enumerated Below.

The Board of Appeals considered the Hearing Examiner's Report and Recommendation at its Worksession on January 27, 2010. After careful consideration and review of the record in the case, the Board adopts the Report and Recommendation and grants the special exception, subject to the following conditions:

1. Petitioners are bound by their testimony and exhibits of record to the extent that such testimony and evidence are identified in the Hearing Examiner's Report and in the Opinion of the Board.
2. The accessory apartment may be inhabited by no more than two people.
3. Petitioner must make all of the corrections identified in DHCA's inspection memo, Exhibit 13(a):

- a. Bedroom: The windows do not meet the minimum egress requirements for an emergency escape and rescue opening. The first level windows must have a clear opening of a least 5.7 square feet. The minimum width of the opening must be at least 20 inches and the minimum height must be at least 24 inches.
 - b. Bathroom: The wall is in disrepair.
 - c. Exterior Grounds: Solid waste on the property (piece of wood and cement splash block).
 - d. Front Door Frame: The wood trim is in disrepair and has a hole in it.
 - e. Exterior Walls/Siding: Accumulation of mold and mildew.
4. Per Code § 59-G-2.00(b)(1), Petitioners must occupy one of the dwelling units on the subject property.
 5. Per Code § 59-G-2.00(b)(3), Petitioners must not receive compensation for more than one dwelling unit on the subject property.
 6. Petitioners must obtain and satisfy the requirements of all licenses and permits, including but not limited to building permits or use-and-occupancy permit, necessary to implement the special exception as granted herein. Petitioners shall at all times ensure that the special exception use and facility comply with all applicable codes (including but not limited to building, life safety and handicapped accessibility requirements), regulations, directives and other governmental requirements.

On a motion by Carolyn J. Shawaker, seconded by Stanley B. Boyd, with Walter S. Booth, David K. Perdue, Vice-Chair, and Catherine G. Titus, Chair, in agreement, the Board adopted the following Resolution:

BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland that the opinion stated above is adopted as the Resolution required by law as its decision on the above-entitled petition.

Catherine G. Titus
Chair, Montgomery County Board of Appeals

Entered in the Opinion Book
of the Board of Appeals for
Montgomery County, Maryland
this 18th day of March, 2010.

Katherine Freeman
Executive Director

NOTE:

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date the Opinion is mailed and entered in the Opinion Book (See Section 59-A-4.63 of the County Code). Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County, in accordance with the Maryland Rules of Procedure. It is each party's responsibility to participate in the Circuit Court action to protect their respective interests. In short, as a party you have a right to protect your interests in this matter by participating in the Circuit Court proceedings, and this right is unaffected by any participation by the County.